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91 N. E. 761; *Sanders v. Baggerly*, 96 Ark. 117, 131 S. W. 49. *Contra*, *Landrith v. Hudgins*, 121 Tenn. 556, 120 S. W. 783. The principal case is one of the latter class. The complaint clearly alleged a repudiation by the Missouri Synod of certain essential doctrines of the Iowa Synod with which the defendants had become affiliated. Since this fact was admitted by the demurrer it seems that there was no theological question for the court to decide, and that the demurrer was improperly sustained.

TAXATION — STATE INCOME TAX — VALIDITY OF STATUTE. — An Oklahoma statute provides for an income tax on residents, and imposes a like tax on incomes earned by nonresidents on property or businesses within the state. A resident of Chicago, who had large oil holdings in Oklahoma, asks for a temporary injunction restraining the collection of the tax. *Held*, that the tax is valid. *Shaffer v. Howard*, 250 Fed. 873 (District Court, E. D. Oklahoma).

For a discussion of this case, see NOTES, page 168.

TRUSTS — POWERS AND OBLIGATIONS OF TRUSTEES — MANDATORY PROVISIONS AS TO INVESTMENTS. — The settlor of a trust directed the trustees to invest in railway bonds bearing at least 4% interest. A loss was occasioned by investments in 4½% New York City Bonds and 3½% Liberty Bonds of the first issue. *Held*, trustees liable for loss occasioned by investments in 4½% New York City Bonds, but not for the loss occasioned by the investment in Liberty Bonds. *In re Loudon's Estate*, 171 N. Y. Supp. 981 (Surrogate Ct.).

As a general principle trustees are bound to do whatever the creator of a trust directs them to do, unless the beneficiaries, being *sui juris*, excuse them from so doing. *Denike v. Harris*, 84 N. Y. 89; *Womack v. Austin*, 1 S. C. 421; *Handley's Estate*, 253 Pa. St. 119, 97 Atl. 1040; *Robinson v. Robinson*, 11 Beav. 371. But where it is impossible to carry out directions, or where the interests of the beneficiaries absolutely require a change, mandatory provisions may be disregarded. *McIntire v. Zanesville*, 17 Ohio St. 352. See *Citizens National Bank v. Jefferson*, 88 Ky. 651, 11 S. W. 767. That there was nothing in the principal case to justify a disregard of mandatory provisions is shown by the court in holding the trustees liable for the investment in 4½% New York City Bonds. It is conceivable that a situation may arise where investments in war bonds would be made by a prudent man to protect his other property, in which case it is submitted, a like investment by trustees in disregard of directions, would be justified. But again no such crisis presented itself in the principal case. In not holding the trustees liable for the loss occasioned by the investment in 3½% Liberty Bonds, the court sanctioned a patriotic motive of the trustees, at the expense of the beneficiary and without his consent.

UNFAIR COMPETITION — BY MEANS UNLAWFUL AS AGAINST THIRD PERSONS — UNNECESSARY IMITATION OF WARES HAVING SECONDARY MEANING — BURDEN OF PROOF. — The defendant was selling Shredded Wheat Biscuits that were exact imitations of the plaintiff's product. The biscuits had acquired a secondary meaning, in that the consumer considered them to be produced by a single maker, to whose manufacture was ascribed part of the value. Since, in several places, the biscuits were sold unpacked with no distinguishing marks, it was claimed the public was being misled. But a change in the form, size, or color of the products was impracticable. It was doubtful whether some letter or symbol could be impressed on the biscuit or whether a band or tag could be attached which would designate the manufacturer without involving too great expense. *Held*, that the defendant be enjoined, but if in six months he shows that all possible distinguishing marks are impracticable, the injunction should be dissolved. *Shredded Wheat Co. v. Humphrey Cornell Co.*, 250 Fed. 960 (C. C. A.).